

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KUNIO IKUI and YOICHI MATSUBARA

Appeal No. 2005-0430
Application No. 09/817,241¹

ON BRIEF

Before LEVY, SAADAT and MACDONALD, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 2-6. Claims 1 and 7 have been canceled.

We affirm.

BACKGROUND

Appellants' invention is directed generally to a display apparatus capable of preventing the occurrence of electrostatic charges and leakage of electromagnetic fields on its display screen. According to Appellants, in order to suppress the

¹ Application for patent filed March 27, 2001 which claims the foreign filing priority benefit under 35 U.S.C. § 119 of the Japanese Application No. P2000-108978, filed April 11, 2000.

leakage from the display screen and direct it to the outside, one end of a conductive tape is stuck on the screen and the other end is grounded (specification, page 7). An understanding of the invention can be derived from a reading of exemplary independent claim 6, which is reproduced as follows:

6. A display apparatus having a display screen, comprising:

a stacked film attached to a front surface of the display screen, said stacked film comprising in sequence a base layer, a hard coat layer, a conductive film layer, and a dielectric film layer; and

a conductive tape including a conductive base and a conductive sticky layer; wherein:

said conductive sticky layer has a specific electrical resistance,

one end of said conductive tape is stuck on said dielectric film layer via said conductive sticky layer and the other end of said conductive tape is electrically grounded, and

the other end of said conductive tape is connected to a ground portion via said conductive sticky layer.

The Examiner relies on the following references:

Tamura	5,025,490	June 18, 1991
Biornard	5,091,244	Feb. 25, 1992
Hirasawa et al. (Hirasawa)	5,757,117	May 26, 1998

Claims 5 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tamura.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tamura.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tamura and Hirasawa.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tamura and Biornard.

Rather than reiterate the opposing arguments, reference is made to the brief and answer for the respective positions of Appellants and the Examiner.

OPINION

Initially, we note Appellants' indication of the grouping of claims 2-6 as standing or falling together (brief, page 5). However, we will consider the claims in separate groups according to their ground of rejection and as argued by Appellants in the argument section of the brief.

With respect to the 35 U.S.C. § 102 rejection of claims 5 and 6, Appellants acknowledge various teachings in Tamura as proposed by the Examiner (brief, page 9) and argue that layer 11 of the conductive tape is a non-conductive layer and cannot be characterized as the claimed conductive base (brief, page 10). Appellants further point to column 6, lines 37-39 of Tamura and

point out that the protective layer 11 covering adhesive tape 6 is indeed an "electrical insulating" bonding tape (id.).

The examiner responds by arguing that it is element 6 in Tamura (Figure 1 and col. 6, lines 24-32) that the claimed conductive tape reads on (answer, page 5). The Examiner further indicates that Tamura forms tape 6 of a copper or aluminum foil as the conductive base which is coated with an electrical conductive bonding agent as the claimed conductive sticky layer (id.).

A rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), it is only necessary for the claims to "'read on' something disclosed in the

prior art reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it." See also Atlas Powder Co. v. IRECO Inc., 190 F.3d at 1346, 51 USPQ2d at 1945 (Fed. Cir. 1999) (quoting Titanium Metals Corp. v. Banner, 778 F.2d 775, 781, 227 USPQ 773, 778 (Fed. Cir. 1985)).

Upon our review of Tamura, we remain unconvinced by Appellants that the relied on portion of the reference does not teach the claimed conductive tape having a base layer and a sticky layer. In particular, we find that Appellants' characterization of protective tape 11 as the claimed conductive base to be misplaced, especially, in view of the Examiner's explanation of the prior art teachings and the claimed elements. Although Tamura adds insulating tape 11 over conductive tape 6 in order to protect the tape (col. 6, line 37), it is the conductive foil in combination with a conductive bonding agent that form tape 6 and read on the claimed conductive tape. Therefore, we agree with the Examiner that Tamura prima facie anticipates the claimed subject matter of the representative independent claim 6 and dependent claim 5. Accordingly, the 35 U.S.C. § 102(b) rejection of claims 5 and 6 is sustained.

With respect to the 35 U.S.C. § 103 rejection of claim 2 over Tamura, the Examiner asserts that although the claimed sheet

resistivity of the conductive sticky layer is not explicitly disclosed, such wide range of sheet resistivity would have been obvious (answer, page 3). The Examiner further argues that Appellants' specification has not disclosed how such range may solve any problem or yield any unexpected results (id.). Appellants' only rebuttal appears to be based on the same reasons provided in support of patentability of base claim 6 (brief, pages 11 & 12).

Although for each ground of rejection, the claims may be argued separately or as a group, only those arguments actually made by Appellants have been considered in this decision. Furthermore, arguments which Appellants could have made but chose not to make in the brief have not been considered (37 CFR § 41.67(c)(1)(vii)). Here, we do not see that Appellants have presented any rebuttal or pointed to any error in the Examiner's position. Therefore, the 35 U.S.C. § 103 rejection of claim 2 is sustained.

Turning now to the 35 U.S.C. § 103 rejection of claim 3, Appellants argue that protective base 48 of Hirasawa cannot be characterized as the claimed conductive base (brief, page 12). Similarly, with respect to the rejection of claim 4, Appellants argue that Biornard does not disclose a conductive tape including

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a conductive base and a conductive sticky layer (brief, page 13). The Examiner responds by asserting that these features are in fact taught by Tamura where Hirasawa and Biornard are relied on only for teaching the additional features related to a conductive graphite paste and thickness of the dielectric film thickness, respectively (answer, page 6).

We agree with the Examiner that the combination of Tamura with Hirasawa or Biornard suggests the claimed subject matter. Therefore, based on the weight of the evidence and the arguments presented by the Examiner and Appellants, we sustain the 35 U.S.C. § 103 rejection of claims 3 and 4.


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CONCLUSION

To summarize, the decision of the Examiner to reject claims 2-6 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).


AFFIRMED


STUART S. LEVY
Administrative Patent Judge

MAHSHID D. SAADAT
Administrative Patent Judge

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